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AUG 1 1 2004

FACSIMILE COVER SHEET

DATE: August 11, 2004	TIME:
TO: Commissioner for Patents / Office	of Petitions YOUR REF: 10/604,033
FROM: James T. Cronvich	OUR REF: 2173.1
BY: James T. Cronvich	FAX: 703-872-9306
TOTAL # OF PAGES (INCLUDING THIS	S PAGE) : <u>\$17</u>
PLEASE LET US KNOW IF YOU HAVE NO	T RECEIVED LEGIBLE COPIES OF ALL PAGES.
MESSAGE:	• '
Transmittal w/ Cert. of Transmission Fee Transmittal Petition (3 pages) Copy of Application Data Sheet (3 pages) Copy of Notice Regarding Benefit/Pri Copy of Response to Notice regarding	

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Space-Saving Stairs

Precision-Machined Components

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Under the Paperwork Reduction Act of 1985	no orrespondent required to respond to a col Application Number	laction of Information un 10/804,033	relezi <u>t diselar</u>	s a valid OMB control number.
TRANSMITTAL	Filing Date	05/23/2003		
FORM	First Named Inventor	COSTANZO		
(1)	Art Unit	3651	 	
(to be used for all correspondence after init/al	Examiner Name			
		DILLON, Joe		
Total Number of Pages in This Submission	18 Attorney Docket Number	2173.1		
	ENCLOSURES (Check all	that apply)		
Fee Transmittal Form Fee Attached	Drawing(s) Licensing-related Papers		to Technolo Appeal Con	ince communication gy Center (TC) nmunication to Board and Interferences
	Petition			munication to TC ce, Brief, Reply Brief)
Amendment/Reply	Petition to Convert to a	(r-1		
After Final	Provisional Application Power of Attorney, Revocation		Proprietary	
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Extension of Time Request	Terminal Disclaimer		Identify belo	
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Information Disclosure Statement	Remarks			
Certified Copy of Priority Document(s)				•
Response to Missing Parts/	1			
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Firm James T. Cronvich	33163			
Individual name				
Signature Manus J.	lung Com			
Date	ly. 11, 2004			
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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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AUG 1 1 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Mark B. Costanzo

Serial No.: 10/604,033

Filed: 06/23/2003

FOR: TILT CONVEYOR

Docket No.: 2173.1

Examiner: Dillon, J.

Group Art Unit: 3651

PETITION UNDER 37 C.F.R. \$1,181 TO HAVE THE APPLICATION CONVERTED FROM A 35 U.S.C. §111 FILING TO A 35 U.S.C. §371 NATIONAL STAGE FILING

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

Applicant petitions that the filing receipt of this Application be corrected to indicate that it is a national stage application of PCT/US02/01144, filed 01/09/2002.

On June 23, 2003, applicant's undersigned attorney filed this application, US Serial No. 10/604,033, electronically through the USPTO's ePAVE system. In filing the application, the attorney's intent was to file a national stage application under 35 U.S.C. §371. The attorney was also trying to use the electronic filing system as the USPTO encourages filers to use. The attorney was attempting to file US Serial No. 10/604,033 as a US national stage application of International Application No. PCT/US02/01144, filed 01/09/2002. This International application, in turn, claimed the priority of earlier filed US Provisional Application No. 60/260,620, filed 01/09/2001. The attorney attempted to make this clear in the Continuity Data Section of the ePAVE filing system. The Application Data Sheet generated by ePAVE and attached for your reference clearly indicates: "This is a National Stage of GC application number PCT/US02/01144, filed 2002-01-09."

2173.1\pctition

On Nov. 7, 2003, the OIPE mailed the Filing Receipt of Serial No. 10/604,033 to applicant's attorney. The filing receipt was accompanied by the attached Notice Regarding Benefit/Priority Claim(s). The Notice indicated that the "Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35 U.S.C. §371) Application." Furthermore, the form paragraph reads: "Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior filed application is a national stage application under 35 U.S.C. §371. The office's records show that the prior-filed application is an application filed under 35 U.S.C. §111(a)."

On December 3, 2003, applicant's attorney called the Office of Petitions to ask about this situation. The Office of Petitions directed applicant's attorney to the Office, which directed him to the eBusiness Center. The person at the eBusiness Center told applicant's attorney that §371 applications could be filed electronically, but directed him to the PCT Help Desk. The PCT Help Desk told applicant's attorney that §371 applications cannot be electronically filed, although work was underway to allow that in the future. Because it was not clear how best to have the correction made, on December 11, 2003, applicant filed a request with the Offe similar to this petition. The request, which is attached (less duplicates of the documents referenced in the previous paragraphs of this petition) along with the fax auto-reply, requested that the Offe correct the filing receipt to denote this application a filing under 35 U.S.C. §371. Because applicant had not heard from Offe regarding that filing, applicant's attorney earlier today called the PCT Help Desk, explained the situation, and, following the PCT Help Desk's suggestion, is filing this petition. Applicant's attorney also spoke with the Examiner, Joseph Dillon, today about this matter. Examiner Dillon offered to take into account the two possible priority dates when conducting his search.

Applicant contends that:

- The statement in the Notice does not apply to this filing because applicant did not indicate that the
 prior-filed application is a national stage application. The prior-filed application is not a national
 stage application, but an International Application (PCT/US02/01144), not an application filed
 under 35 U.S.C. §111(a), as indicated in the Notice.
- 2. It is clear on the face of the attached electronically-generated Application Data Sheet that applicant intended this to be a national stage application under 35 U.S.C. §371 entitled to the International filing date of 01/09/2002 and to the priority date of 01/09/2001 (Provisional Application No. 60/260,620).

Applicant therefore petitions that the filing receipt of this Application be corrected to indicate that it is a national stage application of PCT/US02/01144, filed 01/09/2002, which claims the priority benefit of provisional Application No. 60/260,620, filed 01/09/2001. If the petition is not granted, applicants kindly requests a suggestion on how to remedy this situation.

The petition fee is authorized to be charged to Deposit Account No. 12-0090.

By:

Respectfully submitted, Mark B. Costanzo

Date: Uy. 11, MUY

James T. Cronvich Reg. No. 33163 Laitram, L.L.C.

220 Laitram Lane Harahan, Louisiana 70123

Telephone: (504) 733-6739, ext. 1243

Facsimile: (504) 734-5233

US-Request

Page 1 of 3

APPLICATION DATA SHEET

Electronic Version v14
Stylesheet Version v14.0

Title of Invention

TILT CONVEYOR

Application Type:

regular, utility

Attorney Docket Number: 2173.1

Correspondence address:

Customer Number:

09748

09748

Continuing Data:

This is a National Stage of GC application number PCT/US02/01144, filed 2002-01-09.

GC application number PCT/US02/01144, filed 2002-01-09 is a Non-Provisional of US application number 60/260,620, filed 2001-01-09.

Inventor Information:

Inventor 1:

Applicant Authority Type:

Inventor

Citizenship:

US

Name prefix:

Mr.

Given Name:

Mark

Middle Name:

В.

Family Name:

Costanzo

City of Residence:

River Ridge

State of Residence:

LA

Country of Residence:

US

US-Request

Page 2 of 3

Address-1 of Mailing Address: 525 Florida Street

Address-2 of Mailing Address:

City of Mailing Address:

River Ridge

State of Mailing Address:

LA

Postal Code of Mailing Address: 70123

Country of Mailing Address:

US

Phone:

Fax:

E-mail:

Attorney Information:

practitioner(s) at Customer Number:

09748

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as my attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Publication Information:

Suggested Figure for Publication - 1

Suggested Classification -

Suggested Technology Center - 3600

Total Number of Drawing Sheets - 4

Assignee 1:

Organization Name: The Laitram Corporation

Address-1 of Mailing Address: 220 Laitram Lane

Address-2 of Mailing Address: Legal Department

City of Mailing Address:

Harahan

State of Mailing Address:

LA

US-Request

Page 3 of 3

Postal Code of Mailing Address: 70123

Country of Mailing Address:

US

Phone:

504-733-6000

Fax:

504-734-5233

E-mail:

jcronvic@laitram.com

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UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Tradomack Office Address COMMISSIONER FOR PATENTS P.O. Box 1439 East PATENTS Alexadds, Vignia 22313-1450

APPLICATION NUMBER

FILING OR 371 (c) DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO /TITLE

10/604,033

06/23/2003

Mark B. Costanzo

2173.1

09748 LAITRAM, L.L.C. LEGAL DEPARTMENT 220 LAITRAM LANE HARAHAN, LA 70123 CONFIRMATION NO. 1032

Date Mailed: 11/07/2003

Notice Regarding Benefit/Priority Claim(s)

☐ Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)

The benefit claim(s) to prior-filed nonprovisional application(s) is improper because there is no specific reference for each prior-filed application that includes: (1) the identification of the prior-filed application by application number, or international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the nonprovisional applications. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/—,— filed —." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed application(s) as required by 37 CFR 1.78. A proper relationship includes an identification of each nonprovisional application as a continuation, divisional or continuation-in-part application of the immediate prior-filed nonprovisional application for which a benefit is claimed under 37 CFR 1.78 in order to establish copendency throughout the entire chain of prior-filed applications. The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a).

Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)

The benefit claim(s) to prior-filed provisional application(s) is improper because the instant application was not filed within twelve (12) months from the filing date of the provisional application,

Page 2 of 3

and there is no indication of an <u>intermediate nonprovisional application</u> that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,— filed ---, which claims the benefit of U.S. Provisional Application No. 60/---,— filed---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed applications (including an indication of any intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed with 12 months of the filing date of the provisional application) as required by 37 CFR 1.78. The required reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed during the pendency of the instant application.

Improper Priority Claim(s) to Prior-Filed Foreign Application(s)

The instant application was not filed within twelve (12) months from the filing date of the prior-filed foreign application, and there is no benefit claim to an intermediate nonprovisional application filed within 12 months of the filing date of the foreign application. Applicant should review each priority claim submitted and, if appropriate, provide the proper reference to any intermediate nonprovisional application filed within 12 months of the filing date of the foreign application in compliance with 37 CFR 1.78, or delete the priority claim. The required reference to an intermediate nonprovisional application must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for the benefit claim to an intermediate nonprovisional application must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed.

Benefit Claims to More Than 400 Prior-Filed Applications

The Office's automated system to record and capture benefit claims is only capable of recording benefit claims for 400 prior-filed applications. Therefore, the Office is unable to generate a filing receipt containing benefit claims for more than 400 prior-filed applications even though applicant is entitled to submit benefit claims for more than 400 prior-filed applications. Accordingly, applicant should not request a corrected filing receipt to include benefit claims for more than 400 prior-filed applications.

Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35

Page 3 of 3

U.S.C. 371) Application

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at http://www.uspto.gov/web/offices/com/sol/og/2003/week11/pathene.htm, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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LEGAL DEPARTMENT

P. O. Box 50699, New Orleans, LA 70150, U.S.A. Phone: 504-733-6000 FAX: 504-734-5233

FACSIMILE COVER SHEET

DATE:	December 11, 2003	·	TIME:
TO:	USPTO OIPE		YOUR REF: 10/604,033
FROM	James T. Cronvich		OUR REF: 2173.1
BY:	James T. Cronvich	FAX: 703-746-9	195
TOTA	L # OF PAGES (INCLUDING THIS	PAGE) : 10	
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	y certify that this correspondence is being nark Office on December 11, 2003.	Jens I	a
Conten	its: Response to Notice regarding Benefit/P Copy of Application Data Sheet (3 page Copy of Notice Regarding Benefit/Prior	riority Claim (3 page es)	n Reg. 33163

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Food Processing Machinery

Plastic Conveyor Belis

Space-Saulay Status

Precision-Machined Components

AUG 1 1 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Mark B. Costanzo

Serial No.: 10/604,033

Filed: 06/23/2003

FOR: TILT CONVEYOR

Docket No.: 2173.1

Examiner:

Group Art Unit:

RESPONSE TO NOTICE REGARDING BENEFIT/PRIORITY CLAIM(S)

Commissioner for Patents P.O. Box 1450 Arlington, VA 22313-1450

Dear Sir:

Applicant requests that the filing receipt of this Application be corrected to indicate that it is a national stage application of PCT/US02/01144, filed 01/09/2002.

On June 23, 2003, applicant's undersigned attorney filed this application electronically through the USPTO's ePAVE system. In filing the application, the attorney's intent was to file a national stage application under 25 U.S.C. §371. The attorney was also trying to use the electronic filing system as the USPTO encourages filers to use. The attorney was attempting to file US Serial No. 10/604,033 as a US national stage application of International Application No. PCT/US02/01144, filed 01/09/2002. This International application, in turn, claimed the priority of earlier filed US Provisional Application No. 60/260,620, filed 01/09/2001. The attorney attempted to make this clear in the Continuity Data Section of the ePAVE filing system. The Application Data Sheet generated by ePAVE and attached for your reference clearly indicates: "This is a National Stage of GC application number PCT/US02/01144, filed 2002-10-09."

s:\2173.1\RESPINTC RE BENEF-PRI CLMS.doc

On Nov. 7, 2003, the OIPE mailed the Filing Receipt of Serial No. 10/604,033 to applicant's attorney. The filing receipt was accompanied by the attached Notice Regarding Benefit/Priority Claim(s). The Notice indicated that the "Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35 U.S.C. §371) Application." Furthermore, the form paragraph reads: "Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior filed application is a national stage application under 35 U.S.C. §371. The office's records show that the prior-filed application is an application filed under 35 U.S.C. §111(a)."

Applicant contends that:

- 1. The statement in the form does not apply to this filing because applicant did not indicate that the prior-filed application is a national stage application. The prior-filed application is not a national stage application. The prior-filed application is not a national stage application, but an International Application (PCT/US02/01144), not an application filed under 35 U.S.C. §111(a), as indicated in the Notice.
- 2. It is clear on the face of the attached electronically-generated Application Data Sheet that applicant intended this to be a national stage application under 35 U.S.C. §371 entitled to the International filing date of 01/09/2002 and to the priority date of 01/09/2001 (Provisional Application No. 60/260,620).

Applicant requests the OIPE to correct the filing receipt to indicate this priority claim.

If there is a better way to have this filing corrected or if it would facilitate matters to discuss this with the undersigned by phone, please call him at 504-733-6739, ext. 1243.

Respectfully submitted, Mark B. Costanzo

Date: Dec. 11, 2003

By:

James T. Cronvich Reg. No. 33,163 Laitram, L.L.C. 220 Laitram Lane

Harahan, Louisiana 70123

Telephone: (504) 733-6739, ext. 1243

Facsimile: (504) 734-5233

2/11/2003 5:00 PM PAGE

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